

**REMARKS**

Claims 3, 4, 6, 21, 22, 23, 25, and 27-35 remain pending after amendment.

***Claim Amendments***

By this amendment, claims 3, 21, 25 and 27 are amended. Claims 2, 5, 7, 10, 11, 12, 13, 14, 15, 20, 24 and 26 are cancelled. New claims 28-35 are added.

Claims 25 and 27 are amended to recite the presence of both component (I) and (II). Claim 21 is amended to recite the presence of component (II) instead of component (I). New claim 28 corresponds to previous claim 2 while additionally reciting the absence of water. New claim 29 corresponds to cancelled claim 20. New claim 30 corresponds to previous claim 5 while additionally reciting the absence of water. New claim 31 corresponds to cancelled claim 24. New claim 32 corresponds to previous claim 7 while additionally reciting the absence of water. New claim 33 corresponds to cancelled claim 26. New claim 34 depends from claim 30, and recites the presence of component (II). New claim 35 depends from claim 32, and recites the presence of component (II). No new matter is added by this amendment.

Entry of this amendment is proper as (1) the number of claims being presented is unchanged, and (2) the amended and newly-presented claims are directed to embodiments deemed allowable by the Examiner.

***Allowable Subject Matter***

Applicants thank the Examiner for the indication of allowable subject matter of claims 4, 6, 21, 22, 23, 25 and 27. However, in view of the above amendments to the claims (believed to be consistent with the Examiner's indication of allowable subject matter), it is believed that all claims are now directed to allowable subject matter.

***Rejection under 35 USC 102(b)***

Claims 2, 3, 5, 7, 10-15, 20, 24 and 26 stand rejected under 35 USC 102(b) as being anticipated by JP '530.

In response, claims 2, 5, 7, 10-15, 20, 24 and 26 are cancelled. Claim 3 now depends from claim 28, which claim is believed to be directed to allowable subject matter.

The rejection is thus moot and should be withdrawn.

***Clarification of Reason for Allowance***

The Examiner states at page 2 of the Action that "The prior art of record fails to teach or suggest the method step of combining the asphalt and the gallate ester in the *presence* of water." It would appear that the Examiner intended to state "in the *absence* of water" – confirmation of this by the Examiner would be appreciated.

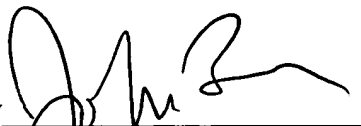
In view of the above, the application is accordingly believed to be in condition for allowance. An early indication of same earnestly is solicited.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact John W. Bailey at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§1.16 or 1.14; particularly, extension of time fees.

Dated: October 16, 2006

Respectfully submitted,

By 

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